

REMARKS

Prior to entry of this amendment, claims 1-9 are pending. By this amendment, claim 1 is canceled, claims 2, 4, 6, 8 and 9 are amended, and new claims 10-14 are added. The subject matter of the amendments to claims 2, 4, 6, 8 and 9 and new claims 10-14 is fully supported in the specification as filed, and thus, no new matter is added.

Also by this amendment, the title of the invention and drawing Fig. 7 are amended. No new matter is added.

Applicants appreciate the acknowledgement of allowable subject matter in claims 5-9.

Favorable reconsideration of this application is respectfully requested in view of the foregoing amendments and following remarks.

Claims 2-14 are presented for prosecution.

Claim 2 Recites Patentable Subject Matter

Claims 1 and 2 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No.: 5,031,048 to Naruto et al. (hereinafter "Naruto"). Applicants respectfully traverse the rejection, as set forth below.

By this amendment, claim 1 is canceled and the subject matter thereof is incorporated into claim 2. Therefore, the rejection of claim 1 will be addressed with respect to claim 2.

Claim 2 recites, in part:

the camera first distinguishes between a fourth condition including the first and second conditions and a fifth condition including the first and third conditions, and then distinguishes, when the fourth condition has been recognized, between the first and second conditions or, when the fifth condition has been recognized, between the first and third conditions.

In rejecting claim 2, the Office Action appears to refer to the fourth condition of claim 2 as the fifth condition and the fifth condition as the fourth. However, in the following arguments, the fourth and fifth conditions are referred to as they are recited in the claims. That is, the fourth condition includes the first and second conditions and the fifth condition includes the first and third conditions. Thus, the fourth condition includes a condition in which there is little difference in brightness between the subject and background (first condition) and a condition in which there is much difference in brightness between the subject and the background and the subject is **less bright** than the background (second condition). The fifth condition includes a condition in which there is little difference in brightness between the subject and background (first condition), and a condition in which there is much difference in brightness between the subject and the background and the subject is **brighter** than the background (third condition).

The Office Action asserts that in claim 2, the fifth condition, which the Office Action refers to as the "fourth condition," yields a strictly front-light result since it is comprised of two front-light situations, and the fourth condition (referred to as the "fifth condition") yields whatever does not qualify as front-light. However, as noted above, the fourth condition may yield a condition in which the subject is less bright than the

background. Thus, Applicant respectfully submits that the fourth condition does not yield whatever does not qualify as front-light, as asserted in the outstanding Office Action.

Applicants respectfully submit the Giefing, Abdel-Mottaleb, Niyogi, and Kang patents fail to teach or suggest such a feature.

The Office Action goes on to assert that Naruto discloses in steps 1 and 2 of Fig. 12 a "fifth condition" in which a front light situation is determined (when "Yes" is determined at step 2), and a "fourth condition" in which a back-light situation is determined (when "No" is determined at step 2). The Office Action further asserts that first through fifth conditions are distinct in the flow chart of Fig. 12 of Naruto.

The Applicant respectfully disagrees.

Naruto discloses at col. 11, lines 3 - 36, a camera that controls exposure of an image sensor according to a result of distinguishing between three conditions. A preliminary first condition and a second condition are distinguished by determining whether the difference in brightness between a central portion of an image B_{vs} and a peripheral portion of an image B_{va} is greater or less than 2. If the difference is less than 2, a "normal" front light condition is determined. If the difference is greater than 2, a back light condition is determined. When the normal front light condition is determined, it is further determined whether a "low brightness" front light condition or a "high brightness" front light condition exists. However, Applicant respectfully notes that Naruto's definition of a "low brightness" front-light condition is a "normal" front light condition that requires the use of a flash. Similarly, Naruto defines a "high brightness" front light condition as a "normal" front light condition that **does not** require the use of a

flash. Therefore, Naruto neither discloses nor suggests a condition in which the subject is brighter than the background, as recited in claim 2.

In addition, Applicant respectfully submits that Naruto neither discloses nor suggests determining between fourth and fifth conditions as recited in claim 2. Rather, as explained above, Naruto discloses first distinguishing between a back-light condition and a front-light condition at step 2 of Fig. 12 by finding the difference between the brightness of an object at the center of an image and the brightness at the periphery of the image. Then, if a front-light condition is determined, Naruto discloses distinguishing between a normal front-light condition and an-over-front-light condition at step 5 of Fig. 12.

Therefore, Applicant respectfully submits that Naruto neither discloses nor suggests a camera that first distinguishes between a fourth condition including the first and second conditions, i.e., including a condition in which there is little difference in brightness between the subject and background (the first condition) and a condition in which there is much difference in brightness between the subject and the background and the subject is less bright than the background (the second condition), and a fifth condition including the first and third conditions, i.e., including a condition in which there is little difference in brightness between the subject and background (first condition), and a condition in which there is much difference in brightness between the subject and the background and the subject is brighter than the background (third condition), as in claim 2.

To qualify as prior art under 35 U.S.C. §102, a single reference must teach, i.e., identically describe, each feature of a rejected claim. As explained above, Naruto

neither discloses nor suggests each and every feature of independent claim 2.

Therefore, it is respectfully submitted that Naruto neither anticipates nor renders obvious claim 2. Accordingly, Applicant respectfully submits that independent claim 2 is patentably distinct over Naruto and withdrawal of the rejection is respectfully requested.

Claims 3 - 8 Recite Patentable Subject Matter

Claims 3 and 4 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Naruto in view of U.S. Patent No.: 5,703,644 to Mori et al. (hereinafter "Mori"). Applicants respectfully traverse the rejection as set forth below.

Each of claims 3-8 depends from claim 2. As explained above, Naruto fails to disclose each and every feature of claim 2. Specifically, Naruto fails to disclose or suggest a camera that first distinguishes between a fourth condition including a condition in which there is little difference in brightness between the subject and background (first condition) and a condition in which there is much difference in brightness between the subject and the background and the subject is less bright than the background (second condition) and a fifth condition including a condition in which there is little difference in brightness between the subject and background (first condition) and a condition in which there is much difference in brightness between the subject and the background and the subject is brighter than the background (third condition).

Mori discloses distinguishing between a backlight state and an excessive front light state directly, by comparing the average luminance of an upper region with the average luminance of a lower region. Thus, Mori also fails to disclose or suggest distinguishing between a fourth condition including the first and second conditions and a

fifth condition including the first and third conditions, as those conditions are defined and recited in claim 2.

To establish *prima facie* obviousness of a rejected claim, the applied art of record must teach or suggest each feature of a rejected claim. See M.P.E.P. §2143.03. As explained above, none of the applied art of record, either alone or in combination, teach or suggest each and every feature recited in independent claim 2. Accordingly, Applicant respectfully submits that independent claim 2 is not rendered obvious by the cited references and withdrawal of the rejection is respectfully requested.

Claims 3-8 depend, directly or indirectly, from claim 2. Thus, claims 3-8 are believed to be allowable for at least the same reasons as claim 2, as well as for the additional subject matter recited therein.

Claim 9 Recites Patentable Subject Matter

Claim 9 was objected to as depending from a rejected base claim. Claim 9 has been amended to be in independent form including all of the limitations of its base claim. Thus, claim 9 is believed to be in condition for allowance and a notice to such effect is respectfully requested.

New Claims 10-14 Recite Patentable Subject Matter

New claim 10 recites the subject matter of claims 1-4. Thus, claim 10 is believed to be allowable for at least the same reasons as claim 2.

New claim 11 recites the subject matter of claims 1, 3 and 5; new claim 12 recites the subject matter of claims 1, 3, 5 and 6; new claim 13 recites the subject matter of claims 1, 3 and 7; and new claim 14 recites the subject matter of claim 1, 3, 7 and 8. The outstanding Office Action acknowledged allowable subject matter in claims

5-8. Thus, since new claims 11-14 include the allowable subject matter as well as the subject matter of the base claims and any intervening claims, claims 11-14 are believed to be in condition for allowance and a notice to such effect is respectfully requested.

Conclusion


For all of the above reasons, it is respectfully submitted that claims 2-14 are in condition for allowance and a Notice of Allowability is earnestly solicited.

Should the Examiner determine that any further action is necessary to place this application into better form, the Office Action is invited to contact the undersigned representative at the telephone number listed below.

In the event this paper is not considered to be timely filed, the Applicants hereby petition for an appropriate extension of time. The fee for this extension may be charged to our Deposit Account No. 01-2300 referencing client matter number 103213-00025.

Respectfully submitted,

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